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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,106	11/17/2000	Nandu Gopalakrishnan	4-2-4-5-13-8	6716

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LUCENT TECHNOLOGIES INC.  
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EXAMINER

NGUYEN, BRIAN D

ART UNIT PAPER NUMBER

2661

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/716,106	GOPALAKRISHNAN ET AL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian D. Nguyen	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 6 is objected to because of the following informalities:

Claim 6, line 3, "rate information" seems to refer back to "rate information" in line 2 of claim 1. If this is true, it is suggested to change "rate information" to -said rate information--.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over ERICSSON TELEFON AB L M (WO 00 16513 A).

Regarding claim 1, ERICSSON discloses a method comprising the steps of: receiving rate (mode) information for a wireless unit at a first rate; and adapting a channel for communicating between the wireless unit and a base station (see page 6, lines 1-9; page 10, lines 10-12; and page 12, lines 18-26 where the first rate is every n-th frame). ERICSSON does not specifically disclose the channel is adapted more frequently than the first rate. However, it is well known in the art that each base station can communicate with a plurality of mobile stations on a share channel and because the base station receive rate information from each of the plurality of mobile stations, it is obvious that the shared channel is adapted more frequently than the first rate. For example, if a base station is communicating with two mobile stations and if

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each mobile station transmits rate information to the base station at a rate of once every two time slots, then the shared channel is adapted once every slot.

Regarding claim 3, ERICSSON discloses the receiving comprises receiving the rate information from the wireless unit (see page 5, lines 29-32).

Regarding claim 4, ERICSSON discloses receiving the rate information once every three slots (see page 12, lines 18-26 where  $n = 3$ ).

Regarding claims 5-6, ERICSSON does not specifically disclose adapting the rate information every slot or responding to rate information up to once every slot. However, to adapt the rate information every slot or responding to rate information up to once every slot is a matter of design choice because how often the rate information is adapted is depending on how often the rate information is received from each of the mobile stations. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to adapt rate information every slot to account for rapid changes in transmission channel conditions.

Regarding claim 7, claim 7 is a method claim that has substantially the same limitations as the method claim 1 except that claim 7 claims a plurality of wireless units. Therefore, it is subject to the same rejection.

Regarding claims 8-9, claims 8-9 are method and system claims that have substantially the same limitations as the method claim 7. Therefore, they are subject to the same rejection.

### ***Response to Arguments***

4. Applicant's arguments filed 1/24/05 have been fully considered but they are not persuasive.

The applicant argued *"It is important to note, however, that the channel adaptation is taking place in response to the receiving of the mode information. Thus, the channel is quickly adapted each time mode information is received. In other words, the channel is adapted as frequently as mode information is received. But there is no suggestion to adapt the channel more often than the rate at which mode information is received."* This argument is not persuasive because the base station receives rate information from each of the plurality of mobile stations; it is obvious that the shared channel is adapted more frequently than the first rate. For example, if a base station is communicating with two mobile stations and if each mobile station transmits rate information to the base station at a rate of once every two time-slots, then the shared channel is adapted once every slot. The examiner reminds the applicant that the rate information received from one mobile station cannot be used for other mobile stations.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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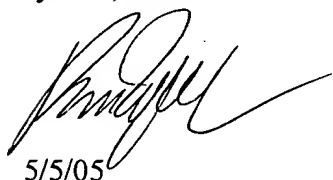
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D. Nguyen whose telephone number is (571) 272-3084.

The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



5/5/05

**BRIAN NGUYEN**  
**PRIMARY EXAMINER**